

# EXHIBIT A

**SUPREME COURT OF THE STATE OF NEW YORK**  
**COUNTY OF ERIE**

-----X  
JOSHLYN M. WASHINGTON, ET AL.

Plaintiff/Petitioner,

- against -

Index No. 815646/2017

CSX TRANSPORTATION, INC.

Defendant/Respondent.  
-----X

**NOTICE OF COMMENCEMENT OF ACTION**  
**SUBJECT TO MANDATORY ELECTRONIC FILING**

PLEASE TAKE NOTICE that the matter captioned above has been commenced as an electronically filed case in the New York State Courts Electronic Filing System ("NYSCEF") as required by CPLR § 2111 and Uniform Rule § 202.5-bb (mandatory electronic filing). This notice is being served as required by that rule.

NYSCEF is designed for the electronic filing of documents with the County Clerk and the court and for the electronic service of those documents, court documents, and court notices upon counsel and unrepresented litigants who have consented to electronic filing.

Electronic filing offers significant benefits for attorneys and litigants, permitting papers to be filed with the County Clerk and the court and served on other parties simply, conveniently, and quickly. NYSCEF case documents are filed with the County Clerk and the court by filing on the NYSCEF Website, which can be done at any time of the day or night on any day of the week. The documents are served automatically on all consenting e-filers as soon as the document is uploaded to the website, which sends out an immediate email notification of the filing.

The NYSCEF System charges no fees for filing, serving, or viewing the electronic case record, nor does it charge any fees to print any filed documents. Normal filing fees must be paid, but this can be done on-line.

**Parties represented by an attorney:** An attorney representing a party who is served with this notice must either: 1) immediately record his or her representation within the e-filed matter on the NYSCEF site; or 2) file the Notice of Opt-Out form with the clerk of the court where this action is pending. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the operational knowledge to comply with e-filing requirements. [Section 202.5-bb(e)]

**Parties not represented by an attorney:** Unrepresented litigants are exempt from e-filing. They can serve and file documents in paper form and must be served with documents in paper form. However, an unrepresented litigant may participate in e-filing.

For information on how to participate in e-filing, unrepresented litigants should contact the appropriate clerk in the court where the action was filed or visit [www.nycourts.gov/efile-unrepresented](http://www.nycourts.gov/efile-unrepresented). Unrepresented litigants also are encouraged to visit [www.nycourthelp.gov](http://www.nycourthelp.gov) or contact the Help Center in the court where the action was filed. An unrepresented litigant who consents to e-filing may cease participation at any time. However, the other parties may continue to e-file their court documents in the case.

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at [www.nycourts.gov/efile](http://www.nycourts.gov/efile) or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: [efile@nycourts.gov](mailto:efile@nycourts.gov)).

Dated: November 3, 2017

  
\_\_\_\_\_  
Signature

Patrick J. Donoghue, Esq.

\_\_\_\_\_  
Name

Godwin Hurley & Donoghue, LLP

\_\_\_\_\_  
Firm Name

1234 Delaware Avenue

\_\_\_\_\_  
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\_\_\_\_\_  
Phone

[pdonoghue@godwinhurleylaw.com](mailto:pdonoghue@godwinhurleylaw.com)

\_\_\_\_\_  
E-Mail

To: CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202

9/3/15

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RECEIVED NYSCEF: 11/02/2017

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

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JOSHLYN M. WASHINGTON, Individually, and as  
Parent and Natural Guardian of  
J. [REDACTED] M. B. [REDACTED], an infant  
[REDACTED]  
Buffalo, New York 14213

SUMMONS

INDEX NO: \_\_\_\_\_

Plaintiff,

vs.

CSX TRANSPORTATION, INC.  
500 Water Street  
Jacksonville, Florida 32202

Defendant.

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**TO THE ABOVE NAMED DEFENDANT:**

**YOU ARE HEREBY SUMMONED** and required to serve upon the Plaintiff's attorney, at his address stated below, an Answer to the attached Complaint.

If this Summons was personally served upon you in the State of New York, the Answer must be served within twenty (20) days after service of the Summons, excluding the date of service. If the Summons was not personally delivered to you within the State of New York, the Answer must be served within thirty (30) days after service of the Summons is complete as provided by law.

If you do not serve an Answer to the attached Complaint within the applicable time limitation stated above, a judgment will be entered against you, by default, for the relief demanded in the Complaint without further notice to you.

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The Plaintiff designated Erie County as the place of trial; the basis of venue is the  
Plaintiffs residence, [REDACTED] Buffalo, New York, County of Erie.

DATED: October 31, 2017

GODWIN HURLEY & DONOGHUE, LLP

BY: /s/ Patrick J. Donoghue  
Patrick J. Donoghue, Esq.  
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STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

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JOSHLYN M. WASHINGTON, Individually and as  
Parent and Natural Guardian of  
J [REDACTED] M. B [REDACTED], an infant

COMPLAINT

INDEX NO: \_\_\_\_\_

Plaintiff,

vs.

CSX TRANSPORTATION, INC.,

Defendant.

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Plaintiff, JOSHLYN M. WASHINGTON, Individually and as Parent and Natural Guardian of  
J [REDACTED] M. B [REDACTED], an infant, by and through their attorneys, GODWIN HURLEY & DONOGHUE  
LLP, as and for their Complaint against defendant, CSX TRANSPORTATION, INC., hereby allege  
the following:

1. At all relevant times herein, plaintiff, JOSHLYN M. WASHINGTON and J [REDACTED] M.  
B [REDACTED] resided at [REDACTED], Buffalo, New York 14213 and/or [REDACTED],  
Buffalo, New York 14214.
2. At all relevant times herein, plaintiff, JOSHLYN M. WASHINGTON was the parent and  
natural guardian of J [REDACTED] M. B [REDACTED], an infant.
3. On April 28, 2017, plaintiff, J [REDACTED] M. B [REDACTED] was eight years old and resided with  
his mother, JOSHLYN M. WASHINGTON.

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4. At all relevant times herein, defendant, CSX TRANSPORTATION, INC., was a Virginia Corporation with headquarters in Jacksonville, Florida.

5. At all relevant times herein, defendant, CSX TRANSPORTATION, INC., was a registered foreign corporation authorized to do business in the State of New York and was a common carrier by railroad engaged in interstate rail transportation and commerce.

**AS AND FOR PLAINTIFFS' FIRST CAUSE OF ACTION**

6. Plaintiff, JOSHLYN M. WASHINGTON, individually, and as parent and natural guardian of J [REDACTED] M. B [REDACTED], repeat and re-allege paragraphs "1" through "5" with the same force and effect as if more fully set forth herein.

7. The subject incident occurred on or about April 28, 2017, at approximately 4:30 p.m. on tracks owned by defendant, CSX TRANSPORTATION, INC., near Goodyear Avenue and Sycamore Street in the City of Buffalo, State of New York.

8. At the above described time and location, plaintiff, J [REDACTED] M. B [REDACTED], was visiting the home of H [REDACTED] F [REDACTED] located at [REDACTED] in the City of Buffalo, State of New York.

9. Shortly after arriving at the location, plaintiff, J [REDACTED] M. B [REDACTED], and two of Ms. F [REDACTED]'s children exited the home and proceeded over defendant, CSX TRANSPORTATION, INC.'s railroad tracks that separate Goodyear Avenue from the Harvey Austin playground.

10. It is regular and customary for children and adults living in and around the subject area to use the informal cut-through across defendant, CSX TRANSPORTATION, INC.'s railroad tracks.

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11. Defendant, CSX TRANSPORTATION, INC., knew or should have known, that this area of their tracks was regularly being used as a cut-through by residents in the subject area and they failed to take any measures to prevent or discourage pedestrians from using the subject cut-through despite prior serious injuries in and around the subject area.

12. In the course of plaintiff, J. [REDACTED] M. B. [REDACTED], traversing the subject cut-through, his pants were caught on the coupler of a railcar and he was dragged by the train resulting in the de-gloving of his right foot and ultimately the amputation of his right foot.

13. Defendant, CSX TRANSPORTATION, INC., was negligent in the following manner: it failed in its duty as a landowner and rail carrier to take reasonable and necessary actions to keep its property safe and free of danger; it failed to warn pedestrians in the subject area of hazards then and there existing; it failed to erect barriers and/or other devices to prevent pedestrians from entering the subject area; it failed to adequately address prior complaints from residents in and about the area of hazards and dangers that existed on their property around the subject area; it failed to employ adequate numbers of railroad police to patrol the area at the time of train movements to prevent pedestrians from entering the subject area; it failed to provide adequate and consistent training to its operating personnel to identify and remedy unsafe walking conditions on its property; it failed to provide effective cautionary communications to pedestrians; it failed to meet industry standards and guidelines; and it was otherwise negligent in the operation of its business in interstate rail transportation and commerce.



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14. As a result of the aforesaid negligence, J [REDACTED] M. B [REDACTED], was caused to suffer severe and permanent injuries, including, but not limited to a right foot amputation above the ankle; past and future pain and suffering; a diminished earning capacity; lost future wages; disfigurement; mental anguish and suffering; a decreased quality of life and other damages.

15. Plaintiff demands trial by jury.

**AS AND FOR PLAINTIFFS' SECOND CAUSE OF ACTION**

16. Plaintiffs repeat and re-allege each and every allegation in paragraphs "1" through "15" with the same force and effect as if more fully set forth herein.

17. The claim of the plaintiff, JOSHLYN M. WASHINGTON, is derivative in nature for medical expenses, wage loss, and loss of services.

18. As a result of the negligence of defendant, CSX TRANSPORTATION, INC., in causing severe injuries to plaintiff-infant, the parent and natural guardian of J [REDACTED] M. B [REDACTED], JOSHLYN M. WASHINGTON, was and will be in the future deprived of his services; was and will be compelled to spend money for medical care and treatment; was and will be deprived of the comfort and happiness derived from his society and companionship; and has suffered and will continue to suffer great mental anguish and emotional distress all to her damage.

19. As a result of the above, plaintiff, JOSHLYN M. WASHINGTON, has been damaged in an amount of money that exceeds the jurisdictional limits of all lower courts.

20 Plaintiff demands trial by jury.

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WHEREFORE, plaintiffs, JOSHLYN M. WASHINGTON, individually, and as parent and natural guardian of J [REDACTED] M. B [REDACTED], an infant, hereby demands Judgment in their favor against defendant, CSX TRANSPORTATION, INC., in an amount that shall fully and fairly compensate them; together with such other and further relief as this court deems just and appropriate.

DATED: October 31, 2017

GODWIN HURLEY & DONOGHUE, LLP

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